

REMARKS

Consideration of this application in view of the above amendments and following remarks is respectfully requested. Claims 1-58, 60 and 63-140 are now pending. Claims 1, 10, 19, 28, 37, 44, 51, 58 and 60 have been amended.

In response to the prior Office Action, Applicants filed an Amendment wherein the pending independent claims directed to barbed sutures were amended to recite “and wherein the barbs have a configuration comprising an arcuate base.” Thereafter, the Patent Office issued an Office Action of December 2, 2008, maintaining the claim rejections under 35 USC 102 in view of Buncke (U.S. Patent 5,931,855, for claims 4, 13, 22 and 31) and under 35 USC 103 in view of Buncke in combination with Ruff (U.S. Patent 5,342,376 for claims 115-140). In regard to Applicants’ prior claim amendment, the Examiner took the position that “Figure 13 of Buncke’s drawings show filament 84 having a circular cross-section or the outer surface of the suture filament 84 is a constant arcuate surface, thus, the barb of the suture filament 84 that created by the cutting blade also has an arcuate barb base”.

Initially, the Applicants acknowledge the correctness of the Examiner’s view. If the arcuate base recited in the claims refers to the base of the topside of the barb, then the base will, absent some special steps, naturally have a configuration that reflects the surface configuration of the unbarbed suture. However, this is not the meaning intended by Applicants’ earlier claim amendment. In order to more clearly describe the barbed sutures of the present invention, Applicants are amending the claims to make clear that the arcuate base refers to the base of the underside of the barb, not the topside of the barb. More specifically, the claims have been amended to recite that the barbs have “an underside base that is arcuate” rather than stating “and wherein the barbs have a configuration comprising an arcuate base”.

As the Examiner has correctly noted, the base of the topside of the barbs will have a configuration that is the same as, or at least reflects, the configuration of the outer surface of the unbarbed suture. Thus, the manner in which the suture stock is cut will have little or no effect on the configuration of the topside base, absent some special steps. However, depending

on how the barb is cut, the base of the underside of the barb may have various configurations. Applicants teach and disclose this feature at, *e.g.*, paragraphs 0164-0166, where it is explained at paragraph 0165 that “to achieve barb 115 having arcuate base 119, the cutting device is provided with cutting blades with ends that are correspondingly arcuate with respect to the base 119”. The language of “topside” and “underside” in reference to barbs is used repeatedly in Applicant’s specification, and accordingly the use of the term “underside” in the claims does not add new matter. *See, e.g.*, paragraphs 0017, 0018 and 0172.

Neither Buncke nor Ruff specifically mention the configuration of the base of the underside of the barbs of a barbed suture. Absent some special steps, a typical straight blade will result in a flat, linear base for the underside of the barbs, as mentioned at paragraph 0166 of Applicant’s specification. Not only do neither Buncke nor Ruff mention the configuration of the base of the underside of the barbs of a barbed suture, neither of these documents teach or suggest fabrication techniques that would provide for a barbed suture according to Applicant’s claimed invention. Accordingly, Applicant respectfully contend that neither Buncke nor Ruff, alone or in combination, teach or suggest a suture according to Applicant’s pending claims. Reconsideration and withdrawal of the rejections are therefore respectfully requested.

In the Office Action dated December 2, 2008, claim 58 stands provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 16 and 22 of copending Application No. 10/062,280. In addition, claim 60 stands provisionally rejected on the same grounds, in view of claim 22 of copending Application No. 10/065,280. The Examiner is asked to reconsider this rejection in view of the presently pending claims.

In view of the above amendments and remarks, allowance of claims 1-36, 58, 60, and 102-140 is respectfully requested. A good faith effort has been made to place this application in condition for allowance. However, should any further issue require attention prior to allowance, the Examiner is requested to contact the undersigned at 425-831-4416 to resolve the same.

Application No. 10/065279  
Response to Office Action dated December 2, 2008

The Director is authorized to charge any additional fees due by way of this amendment, or credit any overpayment, to our Deposit Account No. 50-2574.

Respectfully submitted,

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